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EXAMINER

GARCIA OTERO, EDUARDO

ART UNIT	PAPER NUMBER
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2123

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/903,946

Applicant(s)

CABEZAS ET AL.

Examiner

Eduardo Garcia-Otero

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION: Non-Final (first action on the merits)

Introduction

1. Title is: UNIFIED DIAGNOSTICS PLATFORM SYSTEM AND METHOD FOR EVALUATING COMPUTER PRODUCTS.
2. First listed inventor is: CABEZAS.
3. Claims 1-20 are pending.
4. US Application was received 7/12/01, and no earlier priority is claimed.

Index of Important Prior Art

5. Habeck refers to US patent 5,684,789.
6. Figart refers to US patent 4,165,443.
7. Fletcher refers to "Engineering Approach to Digital Design" by William I. Fletcher, Prentice-Hall, Inc., 1980, pages 210-213 and 231-235.

Definitions

8. **"Multiplexer"** is defined as "A device for funneling several different streams of data over a common communications line. Multiplexers are used either to attach many communications lines to a smaller number of communications ports or to attach a large number of communications ports to a smaller number of communications lines. Acronym: MUX". Microsoft Computer Dictionary, Fourth Edition, by Microsoft Press, JoAnne Woodcock as Senior Contributor, ISBN 0-7356-0615-3, May 1999. Note that the Applicant uses the less common alternate spelling "multiplexor". Additionally, see Fletcher pages 210-213 and 23-235 regarding multiplexers and decoders.
9. **"Peripheral"** is defined as "In computing, a device such as a disk drive, printer, modem, or joystick, that is connected to a computer and is controlled by the computer's microprocessor. Also called peripheral device. See also console". Microsoft Computer Dictionary, Fourth Edition, by Microsoft Press, JoAnne Woodcock as Senior Contributor, ISBN 0-7356-0615-3, May 1999.
10. **"SCSI"** is defined as "Acronym for Small Computer System Interface, a standard high-speed parallel interface defined by the X3T9.2 committee of the American National Standards Institute (ANSI). A SCSI interface is used to connect microcomputers to SCSI peripheral devices such as many hard disks and printers, and to other computers and local

area networks. Also called SCSI-1, SCSI I. Compare ESDE, IDE". Microsoft Computer Dictionary, Fourth Edition, by Microsoft Press, JoAnne Woodcock as Senior Contributor, ISBN 0-7356-0615-3, May 1999.

11. **"Switch"** is defined as "1. A circuit element that has two states: on and off. 2. A control device that allows the user to choose one of two or more possible states. 3. In communications, a computer or electromechanical device that controls routing and operation of a signal path. 4. In networking, a device capable of forwarding packets directly to the ports associated with particular network addresses. 5. In operating systems such as MS-DOS, an argument used to control the execution of a command or an application, typically starting with a slash character (/)". Microsoft Computer Dictionary, Fourth Edition, by Microsoft Press, JoAnne Woodcock as Senior Contributor, ISBN 0-7356-0615-3, May 1999.
12. **"Switch Box"** is defined as "An enclosure that contains a selector switch. When a user selects a switch setting, the signal passing through the box may be directed either from a signal input to one of multiple outputs, or from the selected input to a single output. Switch boxes are often used to connect multiple peripherals, such as printers, to a single port". Microsoft Computer Dictionary, Fourth Edition, by Microsoft Press, JoAnne Woodcock as Senior Contributor, ISBN 0-7356-0615-3, May 1999.

Claim Interpretation

13. Applicant uses the term "multiplexor" and "switching multiplexor" throughout the Specification and Claims. The Examiner interprets these terms in a broad sense as including the above Microsoft Computer Dictionary definition of "switch box" (connect multiple peripherals, such as printers, to a single port). This is important because the "switch box" may provide bi-directional communication between a computer and a printer (for example), whereas a simple MUX is not bi-directional. For example, a printer generally requires bi-directional communication such as "handshaking" for proper operation.

Drawings-objections

14. The drawings are objected to because they are inconsistent with the claims and with the specification. See 35 USC 112 rejections below.

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15. For example, the same part of an invention is improperly designated by different reference characters in different views, see 37 CFR 1.84(p)(4). See 35 USC 112 rejections below.

Specification-objections-informalities

16. The Specification is objected to because inconsistent with the claims and with the specification. See 35 USC 112 rejections below.

35 USC § 112- first paragraph- enablement

17. The following is a quotation of the first paragraph of 35 U.S.C. 112: The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
18. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.
19. The Figures, the Specification, and the Claims are inconsistent with each other. The same terms appear to have different meanings throughout the application. In particular, the specific organization of elements within the claim 1 term “unified diagnostics platform” is not enabled. Applicant’s general intent appears to be a to create a “unified diagnostics platform” (including switches) to facilitate efficiently testing various combinations of: operating systems, CPUs, computer products, and computer peripherals. However, the specification does not enable a “unified diagnostics platform”. For example, it is not clear where the CPUs are located in FIG 5.
20. UNIFIED DIAGNOSTICS PLATFORM. FIG 1 element 130 “unified diagnostics platform” is described at Specification page 6 line 10 “The unified diagnostic platform 130 includes an external system 150 that allows connection of the computer product 120 to the unified diagnostics platform 130”. Note that the FIG 1 element 130 “unified diagnostics platform” includes “CPU 1 and “operating system 1”. Also note that element

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120 “computer product being evaluated” is shown external to the unified diagnostics platform element 130.

21. In contrast to FIG 1, note FIG 5. First, note that Specification page 9 line 21 states “unified diagnostics platform 500”, in contrast to the designation of element 130 used in FIG 1. Thus, the same part of an invention is improperly designated by different reference characters in different views, see 37 CFR 1.84(p)(4).
22. COMPUTER PRODUCTS. In FIG 1 the “computer product being evaluated” element 120 is external to the unified diagnostics platform element 130. However, in contrast, regarding FIG 5, Specification page 9 line 34 states “computer products to be tested that are contained in three test groups. These test groups include a SCSI test group 1 535...”. Note that in FIG 5 the computer products (for example the computer products in test group 1 element 535) are contained inside of the unified diagnostics platform. Thus, the configuration of FIG 5 appears inconsistent with FIG 1.
23. Also, it is not clear if and how a “test group” (FIG 5 element 535) is distinct from a “computer product being evaluated” (FIG 1 element 120). See 37 CFR 1.84(p)(4) regarding reference characters.
24. Further, note that in FIG 3 the “computer product being evaluated” element 120 is external to the “unified diagnostics platform” element 130.
25. COMPUTER PERIPHERAL. Regarding FIG 1, Specification page 6 line 8 states “Each one of the computer peripherals in the computer peripheral bank 110”. Also note that in FIG 1 the “unified diagnostics platform” element 130 appears to include “CPU 1” attached to “Operating system 1”. However, in contrast regarding FIG 5, Specification page 9 line 28 states “the four different operating systems (OS 1, OS2, OS 3 and OS 4) are contained on hard disks and each computer platform in the **computer bank 505** may boot off of each operating system.” Emphasis added. This implies that element 505 contains computers, and that these computers contain CPUs, and that each CPU may be connected to (may boot off of) each OS. However, in contrast, FIG 1 shows each OS associated with a single CPU, for example OS 1 with CPU 1. Additionally, FIG 1 shows the CPUs internal to the unified diagnostics platform, and not external.

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26. In contrast, Specification page 9 line 20 states “a **bank of computer peripherals 505** (having four computer peripherals)... complex connection of various CPUs, operating system and computer peripherals”. Emphasis added. Note that this sentence appears to treat the element 505 as ordinary computer peripherals (such as printers, see definitions above), and not as a computer bank of multiple computers. Additionally, note how the phrase “various CPUs, operating system and computer peripherals” implies that the various CPUs are distinct from the computer peripherals. Also see Specification page 1 line 35 “computer peripherals are duplicated... similar monitors, keyboards and hard drives”.
27. Further, in FIG 5 it appears that the computer products (Specification page 9 line 34 “computer products to be tested that are contained in three test groups. These test groups include a SCSI test group 1 535”) connect to the various operating systems (SCSI boot group 525) through the secondary switch 530, and also connect to the computer peripheral bank 505 through the main switch 510. No CPUs for operating the operating systems are shown.
28. Additionally, in FIG 5 it appears that “OS 3” is connected directly to “SCSI TEST GROUP 2” element 540, which is directly connected to “COMPUTER PERIPHERAL 4”. The OS 3 cannot be connected to any other SCSI TEST GROUP, and cannot be connected to any other COMPUTER PERIPHERAL. This appears contrary to the intent of “evaluating computer products on a plurality of computer systems” per Specification page 1 line 19.
29. SUMMARY. To summarize, Applicant’s general intent appears to be a to create a “unified diagnostics platform” (including switches) to facilitate efficiently testing various combinations of: operating systems, CPUs, computer products, and computer peripherals. However, the Specification, the Figures, and the Claims are very inconsistent and very unclear.
30. Thus, claims 1-20 are rejected as not enabled.

35 USC § 112-Second Paragraph-indefinite claims

31. The following is a quotation of the second paragraph of 35 U.S.C. 112: The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
32. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
33. Claims 1-20 are rejected as indefinite for the same reasons as the above rejections for lack of enablement.
34. Additionally, the following claims are further rejected for the following reasons:
35. In claim 1, the term “computer product” is not clearly defined. A “computer product” might be hardware (for example, a peripheral device such as a printer), or software, or some combination of software and hardware.
36. Also in claim 1, the term “unified diagnostics platform” is not clearly defined. It is not clear what elements are “unified”, and it is not clear how any elements are “unified”. For example, note that Specification page 5 line 19 states “the unified diagnostics platform system includes a switching multiplexor”. However, dependent claim 3 states “the unified diagnostics platform includes at least one switch”. Thus, it is not clear how dependent claim 3 is further limiting as required by 35 USC 112 paragraph 4. Dependent claim 3 implies that the parent independent claim does not include at least one switch.
37. In claim 10, the term “the switching multiplexor is a multi-way, multi-function switch that facilitates the multiple connection combinations” is not clear. It is not clear how the term “multi-way, multi-function” further limits the term “switching multiplexor” from the parent claim 9. See 35 USC 112 paragraph 4 regarding further limitations. Also see definitions section above.
38. In claim 11, the term “switching multiplexor further comprises a main switch and a secondary switch connected to connected to the main switch” is not clear. Note that parent claim 10 explicitly states “the switching multiplexor is a multi-way, multifunction switch”. Thus, claim 10 is a single switch, but dependent claim 11 is two switches.

39. Also, this claim 11 description of a multiplexor comprising two switches appears contrary to the Microsoft Dictionary definition of multiplexer. Multiplexer is defined as “A device for funneling several different streams of data over a common communications line. Multiplexers are used either to attach many communications lines to a smaller number of communications ports or to attach a large number of communications ports to a smaller number of communications lines. Acronym: MUX”.

Claim Rejections - 35 USC § 102(b)

40. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action: A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
41. Claim 1-9, and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Habeck US Patent 5,684,789.
42. In claim 1, **“unified diagnostics platform”** is disclosed by Habeck Abstract “modular switch box which is responsive to a control signal, is diagnosable”.
43. In claim 2, **“connecting a plurality of computer devices”** is disclosed by Habeck column 1 line 10 “A/B switch boxes... used to connect two personal computers (PCs) to one printer”, and column 1 line 20 “these A/B switch boxes work in both directions and, for example, one PC may be connected to two different printers by a switch box of this nature”.
44. In claim 3, **“includes at least one switch”** is disclosed by Habeck column 1 line 10 “A/B switch boxes”.
45. In claim 4, **“computer-executable instructions”** is disclosed by Habeck column 1 line 25 “sophisticated applications... such switch boxes are now controlled by a computer... computer command”.
46. In claim 5, **“configuring the computer environment using a switching device... evaluating the computer product in the computer environment”** is disclosed by Habeck Abstract “modular switch box which is responsive to a control signal, is diagnosable”.

47. In claim 6, **“switching device is a unified diagnostics platform”** is disclosed by Habeck Abstract “modular switch box which is responsive to a control signal, is diagnosable”.
48. In claim 7, **“unified diagnostics platform comprises a switch”** is disclosed by Habeck Abstract “modular switch box which is responsive to a control signal, is diagnosable”.
49. In claim 8, **“the switch is a software switch”** is disclosed by Habeck column 1 line 25 “sophisticated applications... such switch boxes are now controlled by a computer... computer command”.
50. In claim 9, **“a switching multiplexor... controller in communication with the switching multiplexor”** is disclosed by Habeck column 1 line 25 “sophisticated applications... such switch boxes are now controlled by a computer... computer command”.
51. In claim 13, **“at least one of : (a) a communications device; (b) a display device; (c) an input/output device; (d) a user interface device”** is disclosed by Habeck Abstract “modular switch box which is responsive to a control signal, is diagnosable”, and column 1 line 10 “A/B switch boxes... used to connect two personal computers (PCs) to one printer”, and column 1 line 20 “these A/B switch boxes work in both directions and, for example, one PC may be connected to two different printers by a switch box of this nature”.
52. In claim 14, **“at least one of the plurality of computer devices is internal to the unified diagnostics platform”** is disclosed by Habeck Abstract “modular switch box which is responsive to a control signal, is diagnosable”, and column 1 line 10 “A/B switch boxes... used to connect two personal computers (PCs) to one printer”, and column 1 line 20 “these A/B switch boxes work in both directions and, for example, one PC may be connected to two different printers by a switch box of this nature”.
53. In claim 15, **“at least one of the plurality of the computer devices is external to the unified diagnostics platform”** is disclosed by Habeck Abstract “modular switch box which is responsive to a control signal, is diagnosable”, and column 1 line 10 “A/B switch boxes... used to connect two personal computers (PCs) to one printer”, and column 1 line 20 “these A/B switch boxes work in both directions and, for example, one PC may be connected to two different printers by a switch box of this nature”.

54. In claim 16, “at least one of the plurality of computer devices is powered at least in part by a power supply internal to the unified diagnostics platform” is disclosed by Habeck Abstract “modular switch box which is responsive to a control signal, is diagnosable”, and column 1 line 10 “A/B switch boxes... used to connect two personal computers (PCs) to one printer”, and column 1 line 20 “these A/B switch boxes work in both directions and, for example, one PC may be connected to two different printers by a switch box of this nature”.

Claim Rejections - 35 USC § 103

55. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action: (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
56. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: Determining the scope and contents of the prior art. Ascertaining the differences between the prior art and the claims at issue. Resolving the level of ordinary skill in the pertinent art. Considering objective evidence present in the application indicating obviousness or nonobviousness.
57. Claims 10-12, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Habek in view of Figart US patent 4,165,443 and MP EP 2144.04(VI)(B).
58. Claims 10-12, and 17-20 depend from claim 9.
59. In claim 10, “**multi-way, multi-function switch**” is disclosed by Figart column 1 lines 34-63 “multi-way switches... multi-function box including means permitting the use of modular receptacles, switches or the like all of which are automatically connected to the proper power cable and which, in the case of switches, permit the completion of electrical circuits to distribution cables extending from the multi-function box”.
60. In claim 11, “**multiplexor further comprises a main switch and a secondary switch connected to a main switch**” is disclosed by a mere duplication of parts according to MPEP 2144.04(VI)(B). *In re Harza*, 274 F.2d 669, 124 USPQ 378, 380 (CCPA 1960) states “It is well settled that the mere duplication of parts has no patentable significance

unless a new and unexpected result is produced". Specifically, using two switches ("main switch" and "secondary switch") instead of a single "multiplexor" is mere duplication with no new and unexpected results.

61. In claim 12, **"plurality of computer peripherals... plurality of compute products"** is disclosed by Habeck column 1 line 10 "A/B switch boxes... used to connect two personal computers (PCs) to one printer", and column 1 line 20 "these A/B switch boxes work in both directions and, for example, one PC may be connected to two different printers by a switch box of this nature".
62. In claim 17, **"the controller is a software selector"** is disclosed by Habeck column 1 line 25 "sophisticated applications... such switch boxes are now controlled by a computer... computer command".
63. In claim 18 **"the controller further comprises a main controller controlling the main switch and a secondary controller controlling the second switch"** is disclosed by Habeck column 1 line 25 "sophisticated applications... such switch boxes are now controlled by a computer... computer command".
64. In claim 19 **"the controller is a master controller that is used to control the main controller, the secondary controller, the main switch and the secondary switch"** is disclosed by Habeck column 1 line 25 "sophisticated applications... such switch boxes are now controlled by a computer... computer command".
65. In claim 20 **"the main controller is software controlled"** is disclosed by Habeck column 1 line 25 "sophisticated applications... such switch boxes are now controlled by a computer... computer command".
66. MOTIVATION FOR CLAIMS 10-12, AND 17-20. At the time of the invention, one of ordinary skill in the art would be motivated to combine Figart and MPEP 2144((VI)(B) with Habeck. Specifically, one of ordinary skill in the art would begin with Habeck's detailed disclosure of A/B switch boxes for connecting multiple peripherals (such as printers or hard drives) to a single computer, and similarly to apply multiple computers to a single peripheral (such as a printer or hard drive). Note that the A/B switch boxes isolate a single path at a time, and that these are not shared buses in the sense of networks. Rather, these switches are equivalent to disconnecting one peripheral then

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connecting the second peripheral (similar to a single cable for connecting to printer A or printer B). These switches are simple, durable, and virtually foolproof. Habeck discloses both physical switching (hardware controlled, physically flip the switch) and software switching for “sophisticated applications... controlled by a computer”. One of ordinary skill in the art would be motivated to combine Habeck with Figart’s “multi-function” box in order “to permit the completion of electrical circuits to distribution cables extending from the multi-function box” per Figart column 1 lines 34-63. Additionally, one of ordinary skill would further be motivated to apply MPEP 2144.04(VI)(B) to separate and organize the switches in physically convenient groupings (“main switch” and “secondary switch”) in order to allow various groupings of multiple computers and multiple peripherals. Note that Habeck teaches towards these more complex groupings, one group for peripherals (such as hard drives) to multiple computers, and another grouping for computers to multiple peripherals (such as printers). Note that Habeck column 1 specifically addresses both multiple printers and multiple computers.

Additional Cited Prior Art

67. The following US patents or publications are hereby cited as prior art, but have not been used for rejection. Applicant should review these carefully before responding to this office action. Specifically, An Engineering Approach to Digital Design by Fletcher pages 210-213 and 231-235 provide a clear technical discussion of multiplexers.
68. Additionally, note that simple A/B switches (one input, two outputs) may be joined to create multiple outputs. For example, the two outputs of a single switch may each be routed to a separate switch. Thus, three switches may be connected to yield 4 outputs. See MPEP 2144.04(VI)(B). *In re Harza*, 274 F.2d 669, 124 USPQ 378, 380 (CCPA 1960) states “It is well settled that the mere duplication of parts has no patentable significance unless a new and unexpected result is produced”.

Conclusion

69. All pending claims stand rejected.

Communication

70. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo Garcia-Otero whose telephone number is 571-

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272-3711. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 8:00 PM. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Kevin Teska, can be reached at 571-272-3761. The fax phone number for this group is 703-872-9306.

* * * *



KEVIN J. TESKA
SUPERVISORY
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